

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 4859 OF 2000****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the Constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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JADIYABHAI MALJIBHAI VASAVA (BHIL) - Petitioner(s)**Versus****STATE OF GUJARAT & ORS. - Respondent(s)**

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Appearance :

Shri Jitendra Malkan for Petitioner(s).

Shri Dipen Desai, AGP for Respondent(s) : 1 - 3.

None for Respondent(s) : 4 - 6.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 20/06/2007****ORAL JUDGMENT**

Shri Jitendra Malkan, learned Counsel for the petitioner.

Shri Dipen Desai, learned Assistant Government Pleader, appears for

respondent Nos.1 to 3, but, he is not able to assist this Court because despite service of notice, the State Government has not chosen to file any counter-affidavit. None appears for respondent Nos.4 to 6 though served.

2. The grievance of the petitioner in the present Writ Application is that the petitioner, a member of Scheduled Tribe, owns land bearing Revenue Survey No.1043 of Dholka, District: Ahmedabad. The respondent Nos.4 to 6 and some of their lieutenants wanted to dispossess the petitioner from the said land, but, they having failed in their attempt now are compelling the people of the area surrounding the land to cremate the body of dead on the land belonging to the petitioner. It is also submitted that the petitioner filed certain complaints before the authorities, but, unfortunately, the Officers of the State Government, being afraid of the notoriously known persons, are not helping and assisting the petitioner.

3. In a matter like the present, after receiving the complaint from the petitioner, the State Government, through its agency, was required to make appropriate inquiry and investigation. In case, they had found that the bullies are compelling the use of the petitioner's land as a cremation ground, then, they should have taken an action against all such persons and were also required to provide some protection to the petitioner. When appropriate action is not taken by the administration

and it sleeps, then, illegality creeps in and the rights of the party and justice starts weeping.

4. Most unfortunate part is that on one side, after receiving the complaint, the administrative organ of the State Government is not taking any action and on the other, after receiving the notice of the petition like this, the State Government, through its competent officers(?), are not filing any reply. True it is, that the State Government is not obliged to please everybody, but, it is required to listen to the plights and perils of the people, who knock the doors of the State Government or its organs.

5. In absence of any counter affidavit or any personal affidavit by respondent Nos.4 to 6, I have no reason to disbelieve what is stated by the petitioner on oath. The petition is, therefore, disposed of with the following directions:

- (i) The petitioner would be entitled to file a copy of this order along with an application before the Collector of the concerned District and the Superintendent of Police of the District. He would also be entitled to file a copy of this order along with his application before the Police Inspector, Dholka Police Station, Dholka.
- (ii) After receiving the complaint, the Collector and the Superintendent of Police shall go to the spot and shall make

appropriate inquiry and investigation. If they find that the complaints made by the petitioner are right and justified, then, appropriate protection would be granted to the petitioner against the high-handed acts of respondent Nos.4 to 6 and other village people, who are using the petitioner's land as a cremation ground.

- (iii) After inspecting the spot, and after taking the final action, the Collector and the Superintendent shall submit their report before this Court for information.
- (iv) The Collector and the Superintendent of Police shall observe this order scrupulously otherwise they would be exposing themselves to a serious risk.

Let a copy of this order be also sent from the Court's side to the Collector, Superintendent of Police and the Police Inspector, Dholka Police Station for their due compliance.

Rule is made absolute. No costs.

[R.S.Garg, J.]

*kamlesh**